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JUN 12 2008

In re Application of	:	
Cheol Kim	:	
Application 09/254,058	:	ON PETITION
Filed: June 14, 1999	:	
Attorney Docket No. 2016-11	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a proper response to the non-final Office action mailed October 3, 2003 which set a shortened statutory period for reply of three (3) months. A three month extension of time under 37 CFR 1.136(a) was filed on April 5, 2004. Accordingly, by operation of law, the above-identified application became abandoned on April 6, 2004 (April 3, 2004 was a Saturday).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The renewed petition lacks item (3).

The Petition Decision mailed January 31, 2008 notes that a proper statement of unintentional delay, item (3), was missing from the petition filed October 9, 2007.

The record indicates that the firm of Warner Norcross & Judd LLP (WNJ) was responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner was required to provide a statement from WNJ explaining why action was not timely taken to prevent the application from becoming abandoned. The instant renewed petition indicates that WNJ are uncooperative in providing any information.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to WNJ by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that WNJ provide within a specified period (e.g., one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

The petition indicates that the assignee Kyu Jin Park (Park) could not pay attorney fees even though he promised timely payment. Petitioner needs to explain why Park's failure to pay his attorney fees was not an intentional abandonment of the application.

Page 2 and 3 of the instant petition appears to discuss both unintentional and unavoidable aspects of abandonment. The petition is for unintentional abandonment under 37 CFR 1.137(b) and it is thus not clear why petitioner is making comments regarding unavoidable abandonment as they are moot.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
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                                    P. O. Box 1450  
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By hand:                      U. S. Patent and Trademark Office  
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                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, consisting of a stylized 'C' followed by a long horizontal stroke.

Carl Friedman  
Petitions Examiner  
Office of Petitions